

curb these endless, frivolous appeals of death sentences.

I might add that this is one of the most important criminal law changes in this country's history, and it is about time we get it on track.

To be sure, there are many other important antiterrorism measures which will be included in the final terrorism bill including increased penalties, antiterrorism aid to foreign nations, plastic explosives tagging requirements, and important law enforcement enhancements. But let us make no mistake about it—habeas corpus reform is the most important provision in the terrorism bill. In fact, it is the heart and soul of this bill. It is the only thing in the Senate antiterrorism bill that directly affected the Oklahoma bombing. If the perpetrators of that heinous act are convicted, they will be unable to use frivolous habeas petitions to prevent the imposition of their justly deserved punishment. The survivors and the victims' families of the Oklahoma tragedy recognized the need for habeas reform and called for it to be put in the bill.

The Clinton Administration, which initially opposed meaningful habeas corpus reform, came to its senses and the President himself said he supported our habeas reform proposal. The antiterrorism bill, with the Hatch-Specter habeas proposal passed this body in an overwhelming vote.

Most of those familiar with capital litigation know that support for true habeas reform—support for an end to frivolous death penalty appeals—is the most authentic evidence of an elected official's support for the death penalty. It is against this backdrop that I was surprised to learn recently that on the eve of House debate on the antiterrorism bill—a bill that includes this important habeas reform proposal—the White House had sent emissaries to key Members of the House to lobby for weakening changes to the habeas reform package. Former White House Counsel Abner Mikva, accompanied by White House staff, met with key Members of the House and proposed that the bill be amended to essentially restore the *de novo* standard of review in habeas petitions. This would have gutted habeas corpus reform by allowing Federal judges to reopen issues that had been lawfully and correctly resolved years earlier. I had thought we had a President who was committed to meaningful habeas reform.

When I first learned of this effort, I was surprised. After all, President Clinton promised that justice in the Oklahoma bombing case would be swift. Indeed, he recognized that an end to frivolous death penalty appeals was critical when he said,

[Habeas corpus reform] ought to be done in the context of this terrorism legislation so that it would apply to any prosecutions brought against anyone indicted in Oklahoma.

[Larry King Live, June 5, 1995].

But then I began to consider all of the steps this President has taken to

undermine the death penalty. For example, President Clinton vetoed legislation late last year which contained language identical to the terrorism bill's habeas corpus proposal. Veto message to H.R. 2586, the temporary debt limit increase, Nov. 13, 1995. Prior to that, in 1994, the Clinton Justice Department lobbied the Democrat controlled House for passage of the so-called Racial Justice Act. This provision, in the guise of protecting against race-based discrimination, would have imposed a quota on the imposition of the death penalty. It would have effectively abolished the death penalty.

When the Senate refused to accept this death penalty abolition proposal, President Clinton decided to issue a directive implementing a so-called Racial Justice Act-type review of all Department of Justice decisions involving the Federal death penalty. [Wall Street Journal, July 21, 1994]. On March 29, 1995, Attorney General Reno issued the directive. Ironically, the Clinton Administration did not see fit to provide the victims' families in death penalty eligible cases with any right to petition the Department on the issue of whether the death penalty should be sought. [A.G. Reno directive on title 9 of the U.S. Attorneys' Manual, March 29, 1995].

To further gauge President Clinton's position on the death penalty and the streamlining of habeas corpus reform, one should consider whether his Department of Justice has supported State efforts to impose capital sentences. According to testimony provided to the Senate Judiciary Committee, the Clinton Justice Department considers the fact that a case involves the death penalty as a factor against filing amicus briefs in support of the State. [Testimony of Paul Cassell, Associate Professor of law, University of Utah, November 14, 1995]. The Bush Administration filed briefs in support of the State in 44.4 percent of the cases on appeal where a defendant's death sentence was being challenged. Briefs were filed in 42.9 percent of these cases and in 1991 and in 37.5 percent of the cases in 1992. In 1994, the Clinton Justice Department failed to file a single brief in support of States trying to carry out capital sentences. Many of these cases presented opportunities to protect the Federal death penalty but the Clinton administration sat on its hands.

On March 14, President Clinton said that, in his opinion, the terrorism bill's habeas corpus provision is not as good as it could be, and that there are some problems in the way that it's done but that he may go along with the version contained in the terrorism bill. [U.P.I. March 14, 1996].

Ironically, President Clinton's support for the terrorism bill seems to be dwindling as the likelihood for passage of habeas corpus reform seems to be increasing. Some Democrats appear to be preparing to scuttle the bill by arguing that it may not go far enough. Indeed, one of my colleagues on the other side of the aisle has gone so far as to call

the House terrorism bill useless. We now hear that there is talk within the White House of a possible veto threat unless the terrorism bill is changed.

What I find interesting is that most of the provisions the President and his brethren are flexing their muscles over were not in the administration's original terrorism bill. For example, the President has been critical of the House's bipartisan votes to drop a ban on so-called cop killer bullets and a provision allowing law enforcement to conduct roving wiretaps. On February 10, 1995, Senator BIDEN introduced the administration's original terrorism bill, S. 390. Neither of these provisions were contained in S. 390. Indeed, the House-passed terrorism bill is more comprehensive than the President's original bill.

So I ask my colleagues: Why is a bill which is substantially similar to—in fact broader than—the original Clinton-Biden bill of 1995 useless in 1996? Could the fact that the final terrorism bill will contain tough, true habeas corpus reform be what's really at issue here?

President Clinton's newfound tough on crime rhetoric must be balanced against his administration's record of hostility toward true habeas corpus reform. In a few weeks, the Congress will deliver to President Clinton a tough terrorism bill which will contain our habeas corpus reform provision—a provision to end frivolous death penalty appeals. This reform measure has already been vetoed once and President Clinton has tried to weaken it. If he chooses to veto the terrorism bill, that will be a decision he and the families of murder victims across this country will have to live with. But let's not kid ourselves about why he may do so. To borrow a phrase—keep your eye on the ball. The ball here is habeas corpus reform.

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#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

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#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

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#### REPORT OF THE NATIONAL ENDOWMENT FOR THE ARTS FOR FISCAL YEAR 1994—MESSAGE FROM THE PRESIDENT—PM 137

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying

report; which was referred to the Committee on Labor and Human Resources.

*To the Congress of the United States:*

It is my special pleasure to transmit herewith the Annual Report of the National Endowment for the Arts for the fiscal year 1994.

Over the course of its history, the National Endowment for the Arts has awarded grants for arts projects that reach into every community in the Nation. The agency's mission is public service through the arts, and it fulfills this mandate through support of artistic excellence, our cultural heritage and traditions, individual creativity, education, and public and private partnerships for the arts. Perhaps most importantly, the Arts Endowment encourages arts organizations to reach out to the American people, to bring in new audiences for the performing, literary, and visual arts.

The results over the past 30 years can be measured by the increased presence of the arts in the lives of our fellow citizens. More children have contact with working artists in the classroom, at children's museums and festivals, and in the curricula. More older Americans now have access to museums, concert halls, and other venues. The arts reach into the smallest and most isolated communities, and in our inner cities, arts programs are often a haven for the most disadvantaged, a place where our youth can rediscover the power of imagination, creativity, and hope.

We can measure this progress as well in our re-designed communities, in the buildings and sculpture that grace our cities and towns, and in the vitality of the local economy whenever the arts arrive. The National Endowment for the Arts works the way a Government agency should work—in partnership with the private sector, in cooperation with State and local government, and in service to all Americans. We enjoy a rich and diverse culture in the United States, open to every citizen, and supported by the Federal Government for our common good and benefit.

WILLIAM J. CLINTON.

THE WHITE HOUSE, March 28, 1996.

#### MESSAGES FROM THE HOUSE

At 10:26 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agree to the amendments of the Senate to the bill (H.R. 1833) to amend title, United States State Code, to ban partial-birth abortions.

The message also announced that pursuant to the provisions of section 1 of Public Law 102-246, the Speaker appoints Mrs. Marguerite S. Roll of Paradise Valley, AZ, as a member from private life, to the Library of Congress Trust Fund Board on the part of the House to a 3-year term.

The message further announced that pursuant to the provisions of 22 U.S.C.

276d, the Speaker appoints Mr. Houghton of New York, chairman, on the part of the House to the United States Delegation of the Canada-United States Interparliamentary Group.

The message also announced that the House agrees to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 102. Concurrent resolution concerning the emancipation of the Iranian Baha'i community.

#### ENROLLED BILL SIGNED

At 12:07 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2969. An act to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897.

At 2:49 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill (S. 4) to grant the power to the President to reduce budget authority.

At 5:35 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3136. An act to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit.

At 6:55 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

S. 4. An act to give the President line item veto authority with respect to appropriations, new direct spending and limited tax benefits.

H.J. Res. 168. Joint resolution waiving certain enrollment requirements with respect to two bills of the One Hundred Fourth Congress.

The enrolled bill and joint resolution were signed subsequently by the President pro tempore [Mr. THURMOND].

#### MEASURE PLACED ON THE CALENDAR

The following concurrent resolution was read and placed on the calendar:

H. Con. Res. 102. Concurrent resolution concerning the emancipation of the Iranian Baha'i community.

#### ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on March 22, 1996 he had presented to the President of the United States, the following enrolled joint resolution:

S.J. Res. 38. A joint resolution granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2199. A communication from the Secretary of Labor, transmitting, pursuant to law, a report entitled "Core Data Elements and Common Definitions for Employment and Training Programs"; to the Committee on Labor and Human Resources.

EC-2200. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the Hellenikon International Airport, Athens, Greece; to the Committee on Commerce, Science, and Transportation.

EC-2201. A communication from the Deputy Administrator of the General Services Administration, transmitting, pursuant to law, the report of a building project survey; to the Committee on Environment and Public Works.

EC-2202. A communication from the Chairman of the National Endowment for the Humanities, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act; to the Committee on Governmental Affairs.

EC-2203. A communication from the Administrator of the U.S. Small Business Administration, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2204. A communication from the Chairman of the U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

#### PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-537. A resolution adopted by the Council of the City of Willowick, Lake County, Ohio relative to the Internet; to the Committee on Commerce, Science, and Transportation.

POM-538. A resolution adopted by the Legislature of the Virgin Islands; ordered to lie on the table.

#### "RESOLUTION No. 1551

"Whereas, the global spread of HIV infection and AIDS necessitates a worldwide effort to increase communication, education and preventive action to stop the spread of HIV and AIDS; and

"Whereas, the World Health Organization has designated December 1st of each year as World AIDS Day, a day to expand and strengthen the worldwide effort to stop the spread of HIV and AIDS; and

"Whereas, the World Health Organization now estimates that 18.5 million people have been infected with HIV and that more than 1.5 million of them have developed AIDS; and

"Whereas, the American Association for World Health is encouraging a better understanding of the challenge of HIV and AIDS nationally as it recognizes that the number of people diagnosed with HIV and AIDS in the United States continues to increase; and